

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

ANTHONY C. BRUTI,)	Chapter 7 Case
DARA A. BRUTI)	Case No. 07-12326
Debtors.)	Judge Bruce W. Black (Joliet)

**FINAL APPLICATION OF THE LAW OFFICE OF
DEBORAH K. EBNER FOR ALLOWANCE AND PAYMENT FOR COMPENSATION**

NOW COMES Deborah K. Ebner of the Law Office of Deborah K. Ebner ("Ebner"), General Counsel for Deborah K. Ebner, not individually, but solely as the Chapter 7 Trustee ("Trustee") of the bankruptcy estate of Anthony C. Bruti and Dara A. Bruti ("Estate"), to request this Honorable Court, for the entry of an Order, pursuant to Section 330 of the Bankruptcy Code, to allow her claim for final fees as an administrative expense of this estate. In support thereof, Ebner states as follows:

1. The Petition commencing this case was filed on July 11, 2007 ("Petition Date") under Chapter 7 of the Bankruptcy Code and thereafter Deborah K. Ebner was appointed as the Chapter 7 Trustee.
2. On September 7, 2007, pursuant to an Order of this Court, Trustee was authorized to employ herself, Connie J. Lambert and John Pleta of the Law Office of Deborah K. Ebner ("Ebner Law Office") as and for general Counsel. A copy of the Order authorizing the employment of Ebner Law Office is attached hereto as **Exhibit A**.
3. The Petition in this case is a joint one filed by Anthony and Darla Bruti, husband and wife. Notwithstanding the above, the voluntary petition was filed by not only Anthony and Darla Bruti, but the Petition appeared to indicate that the case was also being filed by two closely held corporations of Anthony Bruti. At the initial meeting of creditors, Trustee asked Debtors' counsel to amend the Petition to refer only to Debtors Anthony and Dara Bruti. Trustee suggested the continued inclusion of the corporations on the Petition would cause creditor confusion.¹ Despite repeated requests, the Petition was not amended until August 19, 2009.

¹ Trustee was concerned that among other potential problems, creditors of the corporations would file claims against the Estate, which would cause confusion.

4. As of the Petition Date, the major assets of the Estate were the Debtors' interests in certain tax refunds, accounts receivable and percentage interests in a certain vehicle (the "Property"). The Estate received in excess of \$43,644.81 from liquidation of Property. Some of the Property collected included receipts that belonged to the Debtors' corporate entities. Trustee had discovered her possession of corporate funds, and was preparing to return the funds to the issuer, but was prevented from doing so when she was served with a third party citation from a corporate creditor. Applicant removed the citation to this Court, a hearing commenced and concluded and Trustee was ultimately authorized to turnover the third party funds to the citation creditor.

5. Applicant appeared before this Court in November 2008, at which time she was awarded interim fees of \$8,000.00 and costs of \$112.35. A copy of that order is attached as **Exhibit B**. At this time, Applicant seeks \$4,637.50 as and for a final balance of attorneys fees; and also seeks a final determination from this Court that the First Interim fee order and any order awarded as a result of this Application be deemed final.

6. This Application represents the second application Ebner Law Office has filed in this case.

Services Rendered

7. From August 23, 2007 through present ("Application Period"), Ebner Law Office has rendered 42.5 hours of legal services on behalf of the Trustee. For these services, Ebner Law Office seeks a balance of \$4,637.50 as and for legal compensation, with a determination that the prior interim order become final.

8. Legal services for which Ebner Law Office presently seeks compensation are categorized in the following categories: Asset Analysis/Recovery, Case Administration, Claims Administration, Fee/Employment Applications and Liquidation. Summarized below by category are the services rendered by Ebner Law Office during the period covered by this Application:

8.1 Asset Analysis/Recovery and Case Administration (combined): Ebner Law Office expended time reviewing contracts in an effort to market commercial real estate in concert with the

Debtors' secured lender, reviewing and analyzing contracts and other documents relating to potentially piercing the corporate veil of the Debtors' corporate entities; as well as review and analysis of agreements by and between Debtor Anthony Bruti and his father in an effort to determine whether the agreements were arms length; prepared and presented the Trustee's Motion to Extend the Time to Object to Discharge; analyzed miscellaneous information regarding the Debtors' financial affairs; and advised the Trustee with respect to general case administrative issues. In addition, Applicant conducted an extensive 2004 examination which was necessary in order to understand the relationship between Anthony Bruti, Paul Bruti and Bruti Associates, Ltd, all of which are the Debtor, the Debtor's father and one of Paul's companies (hereinafter the "Bruti Family"). (The Bruti Family has been in the construction business for many years in the Chicagoland area, and the proper administration of this Estate required a thorough investigation of those business relationships. Furthermore, Paul Bruti and Bruti Associates, Ltd filed their own Chapter 11 cases and filed substantial claims against this Estate.) By virtue of information obtained through the 2004 process, by Applicant, Trustee was able to settle the family claims without resort to litigation. (The claims services are referenced in the category Claims Administration. Services rendered in this category required the service of legal counsel, for which hourly compensation is sought.)

In connection with the Asset Analysis/Recovery, Ebner Law Office spent 10.9 hours for which it requests allowance and payment of final compensation in the amount of \$3,310.00. In connection with Case Administration, Ebner Law Office expended .3 hours for which she seeks \$75.00.

8.2 Claims Administration and Litigation (combined): Service for which compensation in this category is sought includes only that which required service of an attorney, including analysis of insider claims filed by Debtor's father, Charles Bruti, and the closely held corporation of Charles Bruti to ascertain whether equitable subordination should be pursued. Application of equitable subordination arguments, the basis for which was obtained at a 2004 exam, were used in settlement negotiations, drafting of all pleadings for all claim objections, and analysis of rights of claimants to Estate funds. As a result of Applicant's effort, the insider claims were solved by agreement, as were the majority of the non-insider claims. Applicant also reviewed and analyzed the claim of the citation lien creditor, removed that

action to this Court and participated in a trial relating to turnover of funds. As a result of those efforts, \$640,672.12 in claims were disallowed.²

In connection with Claims Administration, Ebner Law Office spent 16.5 hours for which it requests allowance and payment of final compensation in the amount of \$5,750.00. In connection with Litigation services (included in this category), Ebner Law Office expended 2.8 hours for which she seeks \$730.00 as final compensation.

8.3 Fee/Employment Applications: Ebner Law Office prepared and presented the Trustee's Motion to Employ Attorneys; prepared and presented the Trustee's Motion to Employ a Realtor and Accountant and prepared interim and final applications requesting compensation. In connection with the foregoing, Ebner Law Office spent 12 hours for which it requests allowance and payment of final compensation in the amount of \$2,772.50.

9. An itemized and detailed statement of the services rendered by Ebner Law Office during the Application Period, by category, is attached hereto as **Exhibit C** and is summarized (by attorney (or paralegal) performing the work) as follows:

<u>Attorney (Paralegal)</u>	<u>Hours</u>	<u>Fees</u>
D. Ebner, Attorney	19.70 total hours 16.30 hours (@ \$375—2008/09 rate) 3.40 hours (@ \$350—2007 rate)	\$7,307.50 \$6,112.50 \$1,195.00
C. Lambert, Attorney	9.90 total hours 4.70 hours (@ \$275—2008/09 rate) 5.20 hours (@ \$250—2007 rate)	\$2,592.50 \$1,292.50 \$1,300.00
Carleen Cignetto, Attorney	1.70 hours (@ \$250—2009 rate)	\$425.00
John W. Pleta, Attorney	4.70 total hours (@ \$250—2008 rate)	\$1,175.00
R. Podorovsky, Paralegal	6.50 hours (@ \$175—2008 rate)	\$1,137.50

10. Ebner Law Office regularly made and kept records of services on behalf of the Trustee, including a summary or description of the services rendered, the date the services were rendered, the attorney or paralegal who rendered the services, and the time expended to render the services, in one-tenth hour increments.

² These claims were either disallowed, or, reduced and allowed in an amount lower than that which was originally claimed.

11. The records were made by the attorney or paralegal who rendered the services at or about the time the services were rendered, by means of direct entry into a computerized time and billing system maintained by the Ebner Law Office.

12. Ebner is an Attorney who has been duly licensed by the State of Illinois for more than twenty-five years, and has concentrated her practice in the area of bankruptcy law for almost all of those years. During the Application Period, Ebner has rendered 19.70 hours of legal services on behalf of the Trustee for which compensation is requested in the amount of \$7,307.50. Connie J. Lambert (retired August 1, 2009) is an attorney who has been duly licensed by the State of Illinois for more than eighteen years, and has concentrated her practice in the area of general civil litigation. During the Application Period, Lambert rendered 9.90 hours of legal services on behalf of the Trustee for which compensation is requested in the amount of \$2,592.50. John Pleta is an attorney licensed to practice in Illinois for more than seventeen years, has rendered 4.7 hours of legal service on behalf of Trustee and seeks \$1,175.00 as and for compensation. Carleen Cignetto is an attorney who affiliated with Ebner in May 2009, has been duly licensed by the State of Illinois for twenty-three years and has rendered hours 1.7 for which compensation in the amount of \$425.00 is sought.

13. Ebner Law Office asks this Court to award final compensation in the amount of \$12,637.50 for 42.5 hours of service which the firm has rendered during the Application Period on behalf of Trustee. Having been awarded interim fees of \$8,000.00 in November 2008, Ebner specifically seeks finalization of the prior fee award and a final award and the balance of \$4,637.50.

14. The award Ebner Law Office seeks represents an average rate of compensation of \$297.35 per hour.

15. All services for which Ebner Law Office seeks compensation hereunder were rendered solely on behalf of the Trustee.

16. The rates of compensation sought by Ebner Law Office for services rendered to the Trustee are well within the parameters of the rates other attorneys of similar experience, expertise and reputation generally seeks as compensation for comparable services rendered in connection with the

bankruptcy proceedings within this District.

17. Ebner Law Office has no agreement or understanding with any person, firm or entity with respect to any determination about the amount of compensation or reimbursement it shall receive for services rendered or expenses incurred on behalf of the Trustee.

18. No person, firm or entity has promised to provide Ebner Law Office any compensation or reimbursement for services rendered or expenses incurred on behalf of the Trustee. The exclusive source of such compensation and reimbursement, if any shall be the available funds of the Estate.

19. Except as permitted by Section 504(b) of the Bankruptcy Code, Ebner Law Office has neither shared nor agreed to share with any person, firm or entity, any compensation or reimbursement it may receive for services rendered or expenses incurred on behalf of the Trustee.

WHEREFORE, Applicant Deborah K. Ebner of the Law Office of Deborah K. Ebner, respectfully asks this Honorable Court to grant relief, after hearing upon due and proper notice, as follows:

- I. To award the Law Office of Deborah K. Ebner final compensation in the amount of \$12,637.50;
- II. To allow, and order the Trustee to disburse to Ebner Law Office the remaining \$4,637.50 of the foregoing compensation award;
- III. To deem all prior compensation awards as final; and
- IV. To grant Ebner Law Office such other and further relief as the Court upon hearing shall deem just and equitable.

Respectfully submitted,
The Law Office of Deborah K. Ebner

By: /s/Deborah K. Ebner
Deborah K. Ebner, Esq.

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